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no

STATEMENT OF FACTS

Connected with the claim of the Family

OF THE

LATE HON. COLONEL CLAUS

A TRACT OF LAND

On the Grand River, Niagara District,

Surrendered

**BY THE INDIANS OF THE SIX NATIONS
TO HIS USE ;**

And of the Refusal of the Provincial Government

TO CONFIRM THE SAME.

1839.

T. SEWELL, PRINTER, NIAGARA.

*See
Provincial Secretary's Office, C. W.
No. 1845307/1847-48*

1839
(4)

STATEMENT &c.

To His Excellency, The Right Honorable the Governor-General, His Excellency, the Lieutenant Governor, The Honorable, the Members of the Legislative Council, and the Honorable, the Members of the House of Assembly, in Parliament of the Province of Upper Canada, Assembled—

The following pages containing a statement of the circumstances relating to the claim of the family of the late Honorable Colonel William Claus, to a tract of land on the Grand River, surrendered by the Six Nations of Indians for the benefit of him and his heirs ; and of the refusal of the Executive Government of this Province to confirm the same ; are most respectfully addressed, in the confident expectation, that the Legislature will (if the facts therein stated, be upon due investigation, found to be true,) take such steps, as in their wisdom, will most effectually tend to the attainment of Justice.

In thus most reluctantly submitting their case, in the present distracted state of the country, for the consideration of Parliament, after 13 years of patient but vain efforts, & of alternate hopes and fears, of obtaining from Government that Justice they conceive themselves entitled to—the family of the late Colonel Claus disclaim in the most positive terms any other motive than the desire and determination, if possible, of having a fair, open and impartial investigation of their claim; divested alike from the prejudice arising from previous adverse decisions, and of whatever else, of an *exparte* nature, that heretofore might have had an undue tendency, to prevent a favorable result.

In the first place, the family begs to submit for the perusal of the reader, the circumstances under which, the surrender, which forms the subject of these pages, was made, with the reasons for its confirmation—And in the second place, the facts and documents connected with the various steps, from time to time, taken, to induce Government to confirm the same.

On the 15th January 1798. in conjunction with the late David Wm. Smith and Alex. Stewart Esquires, the late Colonel Claus was, with the sanction of Government, appointed Trustee to manage their private affairs, by the Six Nations of Indians, residing on the Grand River—the two former gentlemen holding no situations in the Indian Department and receiving no salaries as such Trustees, withdrew their names from the Trust in 1804. the duties of which having during the whole period been exclusively performed by Colonel Claus and from thence, continued to be, until his death, in 1826.

In this capacity, it became. from time to time, his duty, in

order to raise money for the benefit of the Indians, (it being found even then, that they could not exclusively depend upon hunting for the means of subsistence) to effect sales of their lands, in various proportions, to the amount of 270,000. acres ; and upon receipt of the monies arising therefrom, to negotiate bills of Exchange, with a view to placing the amount in the British Funds ; and when, from the limited commerce of the Province, bills could not at all times be procured, to place such sums as remained unfunded, at interest, and taking securities for the same ; to draw annually the amount of the interest accruing, and to distribute the same equally among the individuals of the different tribes ; to keep the accounts incidental to such various transactions, besides being frequently called upon to give his attendance at their private Councils, explaining, advising and directing, in all matters of any moment, connected with their private affairs.

These formed some of the principal duties that devolved upon him as Trustee ; duties altogether separate from those appertaining to his appointment of Deputy Superintendant General of Indian Affairs ; (an Appointment chiefly of a military nature) and which he discharged to the entire satisfaction of the Indians to the day of his death ; and for which, neither he nor his family, ever received any compensation.

To the Indians themselves, is not to be ascribed, however, the withholding of a just compensation ; for often did they, during his life, desire to make him a suitable remuneration in land, which he, as often, postponed accepting, until he saw himself sinking into the grave, and about to leave a numerous

family behind, in embarrassed circumstances. It was not until then, that he felt himself impelled to call upon them, to fulfil and make good their repeated promises and offers : when cheerfully did they respond to the call : and on the 3d and 4th days of Aug. 1826, (a stated quantity having been some time previous agreed upon and a survey made accordingly, at which several Indians assisted,) 54 Chiefs, with the sanction of Sir Peregrine Maitland, the then Lieut. Governor, in one of their most numerous Councils, in the most solemn and formal manner, in presence of Officers both Civil and Military, executed, at Niagara, a surrender of a tract of 15,360. acres, to his Majesty, to the use of the said Colonel Claus, his heirs and Assigns.

This Grant, at first view, may appear large ; but when it is considered that, at the time, the land was not worth 5s. an acre, that £150, per annum, was as low a salary as could possibly be offered, it will be found that, for 28 years services, it could not well be less, it being very little more than five per cent, upon the quantity of land disposed of, by the Indians, during his incumbency ; and no greater per centage, it is believed, than has been allowed to Surveyors for their Surveys of Townships.

It is true, that through the instrumentality of designing men, some of those chiefs have since swerved from this their solemn act and deed ; and that Government has refused to confirm the same ; but surely, in the estimation of every unprejudiced person, the injury done the family will not therefore appear the less ; especially when it is known, that His Excellency,

Sir George Arthur, so entirely convinced himself by personal investigation, when on the Grand River, a year or two ago, of the equity and fairness of the whole transaction, that he did not hesitate to express himself accordingly; and to declare, that the only point upon which he had any doubt was as to the right of the Indians to make any surrender or grant whatever of their lands; to which doubt has since been superadded, that the surrender in question, had not been executed by all the Chiefs of the Six Nations—a formality, which it is boldly asserted, has never in any one instance of the various surrenders sanctioned by Government, been complied with. In vain, has it been urged, that of all the grants made by the Indians, this, alone, remains unrecognized and unconfirmed; while none other had received the sanction of a greater majority of the Chiefs, or been executed with greater solemnity, formality and publicity; and that these objections had never been raised to any former grants, how informal or void of consideration soever, they may have been: not even to those made by Capt. Brant, their Agent, nor those made, at the very same Council with the one in question, all have been confirmed without either questioning the right of the Indians to dispose of their lands or their delegation of that right to an individual, with the exception of this one solitary instance. For on the one hand, no matter, what informality or deficiency, however doubtful the authority or want of consideration, may have appeared, yet such formed no impediment to the confirmation of all other grants, made, by or in the name of these Nations—while, on the other hand, no matter how clear and equitable soever, the case may have been made out in point of considera-

tion ; or with what formality and solemnity soever the surrender may have been attended ; all efforts to obtain its confirmation, have, nevertheless, hitherto proved, vain and but a waste of time and means. And why ? it may be asked.—For no other reason known to the family, than simply because it does not appear expedient ; and that because Lord Dalhousie and a former Lieut. Gov. gave it their opposition, the Successors of the latter seem to avoid the responsibility of deciding differently—(at least, in the absence of all knowledge of any substantial objection ; and that opposition, being so dwelt upon, as a ground for non-confirmation, the family can arrive at no other conclusion) ; while no regard whatever appears to be paid to the views and wishes of Sir Peregrine Maitland, under whose sanction the grant was made, and who, being on the spot at the time, could best judge of its propriety, and so unlike that grand principle of the Trial by Jury “ that no previous decision shall influence or prejudice a subsequent one.”—To which tribunal the family would most gladly submit the case for decision, if it were in their power to do so.

But it may be asked—did not the duties of Trustee form part of those of the office of Deputy Superintendant General, for which, Col. Claus received a salary of £600 per annum ? It is very true that if upon accepting this last appointment in 1796, those duties were declared or understood, to belong to the Office, it is probable, he would not have declined the situation on that account, but when a new appointment came to be made, unconnected with that situation and emanating from a different source, viz. from the Indians themselves ; and which it was

optional with him to accept or decline ; and in the acceptance of which there never was any understanding expressed or implied, that the duties of both were to be performed for the same Salary—(indeed the reverse is manifest from the Indians having it always in contemplation to remunerate him for his services as Trustee)—the impropriety of identifying one situation with the other, cannot fail to appear to the reader : and more particularly, when he is aware that upon Col. Claus death, the situation of Trustee, instead of devolving upon any of the officers of the Indian Department, was conferred upon his son, Mr. John Claus and after him, upon Mr. Hepburne, with a Salary, neither of whom ever held any appointment in that Department—thereby plainly shewing that the situations were never considered identical—But should any doubt still exist in the mind of the reader on this head, the writer begs to suppose a case, viz; that Col. Claus, having his choice to accept or decline the Office of Trustee, without any diminution of his salary as, or prejudice to his appointment of, Deputy Superintendant General, had declined the same; and that either of those Gentlemen, who had been originally associated with him in the Trust, had discharged its duties for 28 years, it is submitted, whether Government could, under these circumstances, with the slightest shadow of propriety, refuse to confirm a surrender for a similar tract in favour of him, who might have so discharged the same—and if not, then, as Col. Claus' holding the appointment of Deputy Superintendant General, cannot lessen the justice of the claim, why should the confirmation of the Surrender in his favour, be denied.

And as regards his Salary—Who is there, considering Col. Claus' position, not only as Deputy Superintendant General of Indian affairs, in the Upper Province, (a situation considered purely military,) through whom all Indian matters, throughout the same, were transacted with the Commander of the Forces, therein ; but also that he was a member of the Legislative and Executive Councils ; that he was called upon, in consequence, to exercise hospitality towards almost all persons of consideration visiting Niagara ; and as regards the Indians themselves, that his house was ever open to them ; considering these facts and bearing in mind, the Salaries received by other heads of Departments, who is there can for a moment imagine, that £600 per annum, was so far above what was reasonable and just, that he could be expected to discharge also the duties of Trustee, without any prospect of further remuneration ! And if to these considerations be added, that his family, from the time of his grandfather, Sir William Johnson, had been in intimate official connexion and on terms of the most friendly intercourse with the Indians, (& alluded to in the preamble as an inducing motive to the Grant;) that, that family had sustained heavy losses by its adherence to the Royal cause, during the American Revolution ; that even the pittance of a pension had been denied his widow, to support her in her old age, while the widows of others, who had been in the Department, had been more fortunate—considering all these facts, who is there free from prejudice and with a just sense of right and wrong, can, for a moment, hesitate to pronounce their case a hardship & a grievance? And yet, strange to say that while their just rights have been thus withheld for the

space of 13 years, one of the reasons advanced as a ground of refusal, is, that latterly the land has become too valuable to grant in so large a quantity, when in equity and right, it ceased to belong to the Indians, long before this fact could, in truth, be stated—It has also been asserted, as another ground, that Col. Claus died indebted to the Indians; which however true, it is not the less so, that the debt has long since been fully satisfied and cancelled, to the entire satisfaction of Government.

Of the various steps, which, from time, to time, have been taken to induce Government to confirm the Surrender in question, it would be occupying the attention of the reader too much to enter into a minute detail,—suffice it to state, that as early as December 1822, (as appears by Major Hillier's reply marked in the Appendix No. 1.) Col Claus was informed, in reply to a memorial respecting a grant of land from the Indians for his services as Trustee, that "His Excellency, the Lieut. Gov. (Sir Peregrine Maitland) would have pleasure "in recommending his Memorial to the favorable consideration "of His Majesty's Government, and would, in the mean time, "provisionally sanction his acceptance of a grant of land from "the Indians of the Five Nations." Comparing the date of this communication with that of the surrender; (viz. August 1826, four years later,) it will readily be perceived, that the Grant was not hurriedly got up nor the Indians taken by surprise. From this period, all further steps, towards obtaining a surrender, were postponed, waiting, as is supposed the result of the Memorial to Earl Bathurst, the Colonial Secretary, which, as appears from Major Hillier's note of the 21st July 1826, (marked No. 2.) had been forwarded with His Excel-

lency's favorable recommendation to which it does not appear that any answer had ever been received. Upon receipt of this note, as Col. Claus was in a very delicate state of health without the slightest prospect of recovery, it was deemed prudent, without any further delay, to obtain, at all events, the surrender of the contemplated Tract, according to the survey made thereof, some time previous, (with the knowledge of all and assistance of some of the chiefs,) Accordingly on the 3rd and 4th of August following, the surrender, (marked No. 3.) was executed as above stated; and by a Petition, dated the 14th of the same month acquainting the Lieut. Gov. of its execution, Col. Claus prayed his Excellency to confirm the same, without reference to the home Government, as he was anxious to settle his worldly affairs, prior to his dissolution, which he felt was near at hand. With this prayer His Excellency did not feel himself authorised to comply, but, in conformity with his promise of recommending the grant, forwarded the Petition to Earl Bathurst, accompanied by a Despatch, dated 30th September 1826, No. 41, (a copy of which, has been denied the family,) recommending the confirmation of the grant to His Lordship. To this Despatch, it does not appear that any answer has ever been received. Whether it was, from the circumstance, that these Despatches having to be forwarded through Lord Dalhousie, then Governor General, he (with whom at the time all Indian matters were transacted so far as could be in this country, and who, from the first, had been prejudiced against the grant, it is apprehended, by misrepresentations of various kinds and from various quarters,) may, perhaps never have transmitted the same; or from some other cause is

not known to the family. In the mean time Sir Peregrine Maitland was succeeded by Sir John Colborne in 1823 who, at once, imbibed opinions unfavorable to the Grant, which he continued to entertain until within a short time previous to his departure, when he seems to have viewed the subject in a somewhat different light, as appears by Major Winniett's letter dated February, 1836, (marked No 4.) wherein he informed Alexander Stewart, Esq., that he had His Excellency's authority to recommend to the Indians their granting the family 5000 acres, but before any thing further could be done; His Excellency was succeeded by Sir Francis Bond Head who reduced this offer of 5000 acres, to 1000, stating that no more was ever intended; and upon its being refused by the family, totally set his face against giving the claim any further consideration. Thus matters stood when His Excellency Sir George Arthur assumed the Government; who upon the subject being laid before him seemed to enter more fully into its consideration; and at an Indian Council held shortly after, by personal investigation and examination of many of the Chiefs satisfied himself fully, not only of the genuineness of the surrender, (which seemed to be questioned by his Predecessors) but of the equity and justice of the grounds upon which it was made—in so much that not only the family but every person acquainted with what had taken place felt satisfied that the question was at last settled and that a very short time would elapse prior to the issuing of the Patent—The family felt the more sanguine on this head from the fact that a person, high in authority, having some time previous given Mr. Warren Claus to understand that if the Indians

could be got to reacknowledge the surrender, all further difficulty would be removed. His Excellency having returned to the seat of Government with this favorable impression referred the subject to the Honorable the Executive Council) as a mere matter of form as was supposed) previous to the Patent issuing. But that Hon. Board from one cause or other, put off from day to day, and Council to Council taking it into consideration until January 1839, when at last a report was agreed to (a copy of which was refused the family.) This document which is supposed favorable was referred to the At-t'y-General for his report, whence arose another delay of several months, to which the family was however disposed to be reconciled, as one of its members was confidently assured by a high functionary that the Grant would be confirmed. The Attorney-General's report having also been sent in, Mr. Lyons waited on Mr. Harrison, Private Secretary, to learn what determination the Government had come to, when after a long interview he retired with the information that the case would be submitted Home ; and that although the accompanying Despatch could not be prepared for the then next trip of the Great Western, it certainly would be forwarded by the next steamer—In consequence of this information Mr. Lyons addressed the communication marked No. 5. to Mr. Harrison, with the view of laying the question before the Provincial Government in what he considered its proper light, previous to its being referred to the Home Government ; and the following day, as it was deemed advisable that one of the family should at the same time proceed to England, the communication marked No, 6. was addressed to the Private Secreta-

ry asking for copies of the principal documents connected with the case, as without such, it would be useless to attempt any thing further. To these Mr. Lyons received the reply marked No. 7. dated 29th July 1839. not only denying, to the utter amazement of the family, all claim, but refusing to give copies of the required documents.

Upon receipt of this communication all idea of deputing any person to proceed Home on the subject, was abandoned as without the necessary documents it would be only a waste of time attended with an expense more than the family could with such slender prospects of success in prudence incur. Nor was it deemed of any advantage to transmit, as suggested, a memorial through his Excellency, so long as he entertained opinions adverse to its success—Indeed the offer to transmit such a document was considered as but ill according with the previous and subsequent parts of Mr. Harrison's communication—It was therefore determined to bring the subject before the Provincial Legislature as the only remaining hope of obtaining Justice ; and thereupon a Petition has been prepared addressed to that Body praying for an investigation ; and that such steps might be taken as the ends of Justice should demand.

And in order to facilitate this investigation the foregoing statement has with the sanction of the family been drawn up, for the information of those to whom it is addressed, previous however to concluding which, the writer, upon the principle of the Golden Rule " of doing unto others as we would be done by," and in the name of that family, would fain solicit for it, an attentive perusal ; and that in any steps to be taken

on the subject, hopes they will be free from undue prejudice on one side or the other, and that a decision will be founded simply on the merits of the case, when the family, if they are to judge from the favor with which it has heretofore been viewed by all persons of standing acquainted with the facts, will have nothing to apprehend for the result.

All of which is most respectfully submitted,

We, whose names are hereunto subscribed, do hereby certify, that the foregoing Statement, has been drawn up, and published with our sanction and entire approbation.

C. CLAUS, Widow,]

W. CLAUS.
CATH. A. M. LYONS,
JOHN LYONS,
CATH. C. STEWART,
WM. STEWART,
AUGUSTA M. DICKSON,
WALTER H. DICKSON,
JOHN B. GEALE,

APPENDIX.

(No. 1.)

GOVERNMENT HOUSE,
YORK, DECEMBER 26TH, 1822. }

SIR,

In reply to your letter of the 12th ult., addressed to the Lt. Governor, I have received His Excellency's commands, to acquaint you that conceiving you to be fairly entitled to a remuneration for your services as Trustee for the property of the Five Nations of Indians. He will have pleasure in recommending your Memorial to the favourable consideration of His Majesty's Government; and will, in the mean time, provisionally sanction your acceptance of a grant of land from the Indians of the Five Nations.

I have the honor to be,

Sir,

Your most ob't.,

Humble serv't.

(Signed,)

G. HILLIER.

HON. W. CLAUS.

(No. 2.)

COTTAGE, 24th July, 1826.

MY DEAR COLONEL,

I have spoken to His Excellency respecting your Memorial for lands &c., on account of your Trusteeship for the Indians, at the Grand River, and He tells me it was forwarded to Lord Bathurst with his recognition of the Justice &c., of the application and favourable recommendation.

Yours &c.,

(Signed,)

G. HILLIER.

HON. W. CLAUS.

(No. 3.)

To all to whom these presents shall come.—We the Sa-

chems and Chief Warriors of the Six Nations of Indians, inhabiting and owning the lands situate, lying and being on the Grand or River Ouse, in the County of Haldimand, in the Province of Upper Canada.—

—SEND GREETING,—

Whereas His late Majesty did by a certain Instrument, bearing date the Twenty Fifth day of October, in the year of our Lord One Thousand Seven Hundred and Eighty Four, under the Hand and Seal of Sir Frederick Haldimand, then Governor of Quebec, allot and grant unto us, upon the Banks of the said River, running into Lake Erie, Six Miles deep from each side of the said river, beginning at Lake Erie and extending in that proportion to the head of the said river.

And whereas the Honorable William Claus of the Town of Niagara, in the District of Niagara, hath been for the last thirty years our Trustee and hath during all that time, conducted and managed our affairs with great advantage to our interests and made profitably available our money without any compensation from us whatever; and We, the said Sachems and Chief Warriors, willing to attribute such disinterested conduct to feelings which have characterized his ancestors, Sir William Johnson and Sir John Johnson, towards our nations, besides his father, who served with us during the whole of the French War, as well as that of the rebellion; and being more particularly able to be our friends, from speaking our languages and who, together with himself, have resided with and amongst us and guarded our interests with parental solicitude.—Wherefore, We, the said Sachems and Chief Warriors, have this day, in general council of our nations, taken into consideration the long, arduous and faithful services, of our said Trustee; and to pay and satisfy his just claim upon us and as the most convenient to ourselves and as manifestation of our esteem and gratitude for the services of him and his ancestors, who have always shewn themselves our steady friends and best advisers, unanimously determined to surrender, to His Majesty, to and for the use of the said William Claus, his heirs and assigns, for ever, the tract of country hereinafter described,

in order that the same may be confirmed to the said William Claus, his heirs and assigns, by Letters Patent under the Great Seal of this Province. Now know ye, that for the said several good causes and weighty considerations of the said claim of the said William Claus, upon us, We, the said Sachems and Chief Warriors, have and each of us, hath, surrendered, relinquished and yielded up ; and by these presents do, and each of us, doth surrender, relinquish and yield up, unto our Sovereign Lord, the present King's most Excellent Majesty, his heirs and successors, all that parcel or tract of land, situate, lying and being on the south side of the said River and within the limits of our in part recited grant and in the county of Haldimand, in the District of Niagara, and Province of Upport Canada, containing by admeasurement, fifteen thousand three hundred and sixty acres, more or less, and which is butted and bounded or may be known as follows, that it is to say, commencing at a stake placed on the Indian line, between lots twenty two and twenty three, in the Township of Walpole, about three chains, more or less, from the house of one Bellows, a settler in Walpole; thence along the Indian line, on the said Township of Walpole and Township of Rainham, South, sixty three degrees East, five hundred and eighty chains ; thence North, twenty three degrees, East, or at right angles to the Indian line between the said Townships to the said Grand River, three hundred and seventy chains, more or less; thence up the stream of the Grand River, the several courses and windings, to a stake on the Bank of the said River; thence South, twenty seven degrees West, extending to the point of commencement; and all the estate, right, title, interest, claim, property and demand whatsoever, of us, the said Sachems and Chief Warriors, of in, to, or out of the same: or any part or parcel of the same ; For the express purpose and to the intent, that the same and every part thereof, may be confirmed by Letters Patent, from His Majesty, to the said William Claus, his heirs and assigns, for ever, In witness whereof, We, the said Sachems and Chief Warriors, of the said six nations, have in general Council, hereunto set our hands and seals, this third day of August, in the year of our Lord one thousand eight hundred and twenty six.

Signed, Sealed and delivered in presence of, (Here follow the Signatures and Seals of 54 Chiefs.)

(Signed,)

- Dn. MACKAY,
Capt. 70th Foot, Com'g.
" JAMES WICKENS,
Dy. Assist. Com'y, Gen'l
" JOHN MUNRO,
Assistant Staff Surg'n.
" A. GARRETT,
Lieut. half pay 49th Reg't.
Barrack Master.
" THO'S, HANDCOCK.
Act'g. Chap. to the For's &c.
" D. CAMERON,
Secretary and Regis'r.
" J. B. CLENCH,
Clerk, Indian Affairs.
" BEN. FAIRCHILD,
Inter'r Ind. Dep't.
" ALEX. STEWAT.

(No. 4.)

BRANTFORD, 1st February, 1836.

Sir,

I beg to apprise you, that I have seen His Excellency, Sir John Colborne, since you were here. He has authorized me to recommend to the Indians, their granting to the Claus family, five thousand acres of land. Should this be satisfactory, pray let me know, and I will convene an Indian Council and make the proposal to them; and give you information of the day when such council will assemble and where.

I am, Sir, your most obedient,
Humble servant,

(Signed,)

JAS. WINNIETT.

S. J. A.

ALEXANDER STEWART Esq.

(No. 5.)

NIAGARA, 22nd July, 1839.

SIR,

As the view which the Provincial Government may take on referring the claim of the Family of the late Colonel Claus, to the grant of Land on the Grand River, made to him by the Indians, will, no doubt, influence the decision of the Imperial Government, on the question, I hope you will pardon my addressing you, at some length, on a matter of such vital importance to the interests of that much injured family; and calling your attention to such observations as the occasion of the interview, I had the honor of having with you, a few days ago, may suggest.

From all I could learn on that occasion, it appeared to me, that of the various objections, which have, from time to time, been put forth, that of the surrender not being executed by all the chiefs, is at present, most dwelt upon. This objection was, I believe, never before urged; and when first mentioned to me, about a month or two ago, did surprize me not a little. I have since enquired, if such were the case; and have learned that out of an aggregate of 60 Chiefs, (the whole number on the Grand River,) no fewer than 54 had executed it, a far greater majority, I am led to assert, than ever executed any surrender or grant made before or since; not even excepting those made to government. It therefore, cannot be considered otherwise than hard, that a formality never before insisted upon, should in the instance of this much aggrieved family, be urged as fatal to their interests; particularly, as I am informed, when almost all of the few, who might have then hesitated, either wished to execute the surrender afterwards or expressed their opinion, that as the grant had been made, and the faith of the nations pledged, it ought to be confirmed. If, however, His Excellency in his dispatch on the subject, should think proper to dwell on this point, I humbly suggest, that it would be but just, at the same time to state, that such formality was never before insisted upon; that other surrenders made at the very same Council, having precisely the same objection, have been confirmed; and that all the Leases made by the late Captain Brant, the agent of the Indians, have also been confirmed; and that too, without any proof being required, that in making those Leases, he had acted on the unanimous authority of the Chiefs; or that they had been made upon sufficient consideration. Indeed if such unanimity were required, it would be utterly impossible, ever to obtain a grant from them, as those who might consent to-day would object to-morrow; and vice versa. It seems to me, that with a view to the justice of the case, the question is susceptible of being narrowed into these three points, viz:

1st. Whether there were extra services to warrant an extra remuneration.

2nd. Whether the remuneration intended to be given, did not exceed what in reason might have been expected? and—

3rd. whether the surrender was duly executed and free from deception? Now if these three questions can be satisfactorily answered with a view to the confirmation of the grant, then, in my opinion, it ought to be confirmed, if otherwise, all further prosecution of the matter should be abandoned. It is not my intention in trying to make out a case for the family to go into any thing like the extent of what might be said on these points; as every thing that can almost be said, is already in one shape or other, before the Government; but shall content myself, with merely stating, with respect to the first point.—That for 28 years, Col. Claus performed services of the nature of those, for which, Mr. Hepburn, at present, receives a salary; which were never, no more than they are now, considered, as identical with the duties of Superintendant; and that if the principle of receiving a salary as superintendant, were to exclude him from remuneration as Trustee, then, any extent of duty, may be imposed upon the same officer, without any increase of remuneration, and no person could be recognised as entitled to receive compensation in more than one capacity; and then it would be seen how few holding office, would escape the consequence of such a principle.—With respect to the second point,—I would merely observe, that even placing Col. Claus' services on a footing with those of Mr. Hepburne, in point of salary and valuing the land according to its value, at the time of making the surrender, (apart-altogether from the consideration of interest,) I have little hesitation in stating that the quantity of Land surrendered, would fall short of the amount, Col. Claus would be justly entitled to.—And with respect to the third point,—that His Excellency, while last year, at the Grand River, convinced himself, not only, that the surrender, was duly executed, but that the claim itself was a just one. It may, however, be said, that the quantity of Land exceeded the number of acres mentioned in the surrender. In reply to which, I would simply observe that the tract was given in miles, and not in acres; that many of the Indians assisted, at the survey months before; that the boundaries were perfectly understood and that Col. Claus at the time gave a Bond to reconvey to such Indians as were settled on the Tract, certain portions of land amounting to several thousand acres. But as it has also been said, that the opposition of Lord Dalhousie and Sir John Colborne, was studiously concealed from His Excellency; and lest such concealment should have been intended as having been clandestinely at-

tempted by the family; I feel myself called upon to state, that such could never have been contemplated; and in proof of which, would merely beg to refer you to the memorial presented to Sir F. B. Head, by Mrs. Lyons. Indeed such an attempt would be perfectly absurd, for all His Excellency had to do, was simply to refer to any one of the officers, of the department, to learn the true state of the case, even if such opposition, had not been alluded to in His Excellency's presence. I have thus presumed upon the kindness, with which, you received me, when I had the honor of calling upon you, to address you to this extent, and hope that in laying the same before His Excellency, he will not deem it, from its length or matter, unworthy of perusal.

I have the honor to be, Sir,

Your most ob't, Humble serv't,

(Signed,)

JOHN LYONS.

S. B. HARRISON, Esq.

P. Secretary.

(No. 6.)

NIAGARA, 23rd July, 1839.

SIR,

As it is deemed likely to be of the utmost advantage to the successful issue of the claim, respecting which, I had the honor of addressing you, yesterday, at some length, that some person, in possession of certified copies of all the documents that materially bear on the case, should, at once, proceed to England, while there are so many persons at present there, from this country, of the highest character, all friendly to the grant, from their conviction of its justice; may I take the liberty of requesting of you, to lay before His Excellency the Lieut. Governor, my respectful request, on the part of the Family, for such copies and any remarks His Excellency may be pleased to make thereon, viz: of the report of the Executive Council made in January last, together with the documents upon which it was founded, as well as the Attorney General's report respecting the same. It being intended, if such can be obtained, and that His Excellency's remarks, (should he be pleased to make any,) be favourable, that some member of the family, shall immediately proceed Home on the subject. I need hardly disclaim any idea of wishing to influence, or in any wise interfere with any course Government may think proper to pursue in the matter, as the sole object in making this application, is to take advantage of so many persons friendly to the interests of

the family, as regards the confirmation of the grant, being at present in England and from the apprehension, amounting almost to a certainty, judging from past experience, that as the subject has again been referred to the Honorable the Executive Council, and as His Excellency is, I am informed, about to be absent from the Seat of Government, for some time, a delay of some extent is likely to be the consequence ;—calculated altogether to defeat that object. Should His Excellency deem this request as rather importuning, I trust he will be disposed to consider it in a different light, and think it time some definitive action should be had on the matter, when he is informed that the question has been now pending thirteen years, during which time, it is feared, sympathy in favour of the Indians, has absorbed the sense of the paramount obligation of doing an act of Justice.

I have the honor to be, Sir,

Your most obe't, Humble serv't,

(Signed,)

JOHN LYONS.

S. B. HARRISON, Esq.

P. Secretary.

(No. 7.)

GOVERNMENT HOUSE, }
29th July, 1839. }

SIR,

I have laid your several communications of the 22nd. & 23rd. inst., before the Lieut. Governor, and I am directed by His Excellency to inform you that at first he was certainly inclined to think that the claim of the Claus Family, had some foundation; but after having given very attentive consideration to the subject, and conferred and communicated with His Excellency Sir John Colborne, His Excellency's mind became entirely divested of all idea of that kind. If, however, it is the wish of the Claus Family to forward to the Home Government, any memorial on the subject of their claim, His Excellency has directed me to say, that he shall have great pleasure in forwarding it at once for consideration.

His Excellency has also directed me to say, in reply to your application, for the documents to which you refer, that it would be a most unusual course to furnish parties with documents of that nature from the Public Offices. They partake of the character of Official documents formed in the course of the investigation, which has taken place on the claim in question ;—At the

same time, His Excellency has desired me to say, that he thinks, you are entitled to copies of any such documents as have been deposited in the public offices by the Claus Family, in support of their claim; and to that extent he will be happy to allow you, at your own expense, to take such copies, as may be required to frame your Memorial.

I have the honor to be,

Sir,

Your most obedient,

Humble Servant,

(Signed), S. B. HARRISON.

JOHN LYONS, ESQUIRE, *Niagara.*